

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION

4 CONTENTGUARD HOLDINGS,) (
5 INC.) (CIVIL DOCKET NO.
6) (2:13-CV-1112-JRG
7 VS.) (MARSHALL, TEXAS
8) (
9 APPLE INC.) (OCTOBER 20, 2015
10) (3:00 P.M.

11 TRANSCRIPT OF JURY TRIAL
12 BEFORE THE HONORABLE JUDGE RODNEY GILSTRAP
13 UNITED STATES DISTRICT JUDGE

14
15 APPEARANCES:

16 FOR THE PLAINTIFF: Mr. Samuel F. Baxter
17 Ms. Jennifer Truelove
18 MCKOOL SMITH, PC
19 104 East Houston Street
20 Suite 300
21 Marshall, Texas 75670
22
23 Mr. Robert A. Cote
24 MCKOOL SMITH, PC
25 One Bryant Park
47th Floor
New York, New York 10036

Mr. Dirk D. Thomas
MCKOOL SMITH, PC
1999 K Street, N.W.
Suite 600
Washington, DC 20006

1 FOR THE DEFENDANT: Mr. David T. Pritikin
2 Mr. Nathaniel C. Love
3 SIDLEY AUSTIN LLP
4 One South Dearborn St.
5 Chicago, Illinois 60603

6 Mr. Dave Anderson
7 Mr. Theodore W. Chandler
8 SIDLEY AUSTIN LLP
9 555 California St.
10 San Francisco, CA 94104

11 Ms. Melissa Smith
12 GILLAM & SMITH
13 303 South Washington Avenue
14 Marshall, Texas 75670

15 Mr. Bryan K. Anderson
16 SIDLEY AUSTIN LLP
17 1001 Page Mill Road, Bldg. 1
18 Palo Alto, CA 94304

19 Mr. Jeffrey P. Kushan
20 Mr. Michael P. Franzinger
21 SIDLEY AUSTIN LLP
22 1501 K Street, N.W.
23 Washington, D.C. 20005

24 COURT REPORTER: Ms. Shelly Holmes, CSR-TCRR
25 Official Reporter
United States District Court
Eastern District of Texas
Marshall Division
100 E. Houston Street
Marshall, Texas 75670
(903) 923-7464

(Proceedings recorded by mechanical stenography, transcript
produced on a CAT system.)

1 P R O C E E D I N G

2 (Jury out.)

3 COURT SECURITY OFFICER: All rise.

4 THE COURT: Be seated, please.

5 All right. Counsel, I received the following note
6 from the jury. We the jury have reached a verdict. And this
7 is signed by Mr. Kenny R. Myers, who my recollection is -- was
8 Juror Member No. 5. He signed it as the foreperson.

9 I'll hand the note to the courtroom deputy to be made
10 part of the file.

11 And I'll direct the Court Security Officer to bring in
12 the jury.

13 COURT SECURITY OFFICER: All rise for the jury.

14 (Jury in.)

15 THE COURT: Please be seated, ladies and gentlemen.

16 Mr. Myers, I understand that you're the foreperson of
17 the jury; is that correct?

18 THE FOREPERSON: Yes, Your Honor.

19 THE COURT: Has the jury reached a verdict?

20 THE FOREPERSON: We have, Your Honor.

21 THE COURT: All right. Would you please hand the
22 executed verdict form to the Court Security Officer who will
23 bring it to me?

24 Ladies and gentlemen, I'm going to announce the
25 verdict at this time. I'd like to ask each of you jurors to

1 listen very carefully because after I've done that, I'm going
2 to ask each of you if this is your verdict so that we can
3 confirm on the record that it is, in fact, unanimous.

4 Turning to the verdict form, I find that the last page
5 is dated and signed by Mr. Myers as the foreperson.

6 Turning to Page 2 of the verdict form, wherein I find
7 Question No. 1: Did ContentGuard prove by a preponderance of
8 the evidence that Apple infringed the following claims of the
9 asserted patents?

10 Claim 1 of the '859 patent, no.

11 Claim 1 of the '072 patent, no.

12 Claim 7 of the '5 -- excuse me, '956 patent, no.

13 Claim 6 of the '007 patent, no.

14 Claim 1 of the '053 patent, no.

15 Turning to Page 3 of the verdict form wherein I find
16 Question 2: Did Apple prove by clear and convincing evidence
17 that any of the following claims are invalid as being obvious?

18 Claim 1 of the '859 patent, no.

19 Claim 1 of the '072 patent, no.

20 Claim 7 of the '956 patent, no.

21 Claim 6 of the '007 patent, no.

22 Claim 1 of the '053 patent, no.

23 Turning to Page 4, wherein I find Question 3. In
24 compliance with the instructions in the verdict form, Question
25 3 is not answered.

1 Turning to Page 5, wherein I find Question 4. In
2 compliance with the instructions in the verdict form, Question
3 4 is not answered.

4 Turning to Page 6, which is the final page of the
5 verdict form, I, again, find that it is dated and signed by the
6 foreperson of the jury.

7 I'll hand the executed verdict to the courtroom
8 deputy.

9 Ladies and gentlemen of the jury, let me poll you at
10 this time to make sure that the verdict that I've just
11 announced is the unanimous verdict of all eight members of the
12 jury.

13 If this is your verdict, as I have read it, would you
14 please stand at this time?

15 (Jury polled.)

16 Thank you, ladies and gentlemen. Please be seated.

17 Let the record reflect that upon being asked by the
18 Court to confirm that this was the unanimous verdict of all
19 eight members of the jury, that all eight members of the jury
20 immediately rose in response to the Court's question to poll
21 the jury.

22 Ladies and gentlemen, this now completes the trial of
23 this case. From the very beginning, I've instructed you over
24 and over and over about not discussing this case with anyone
25 and not discussing it with yourselves until all the evidence

1 was in and you retired to deliberate on your verdict.

2 I'm now releasing you from that instruction and all my
3 other instructions, and I'm discharging you as jurors in this
4 case. That means you're free to talk about this with anybody
5 you want to. It also means that you are free not to talk it --
6 talk about it with anybody that you don't want to talk about it
7 with. The decision, as I told you, is solely up to you.

8 I do need to let you know that the custom and the
9 practice in this court is that as you leave the courthouse,
10 there is a very high probability that some of the lawyers in
11 this case are going to position themselves so that you will
12 have to walk by them to get to your vehicles. It's a small
13 courthouse, and there's only one door in and one door out. If
14 you want to talk about the case, stop, talk about the case as
15 long as you want to. If you don't, walk right by, don't talk
16 about the case. They cannot initiate a conversation with you.
17 Only you can initiate a conversation with them.

18 So if you want to talk, stop and talk. If you don't
19 want to talk, don't say anything. They won't say anything, and
20 you'll walk right by them. That's the custom and the practice
21 with jurors who have been discharged in this -- in this court.

22 I know they'll be interested in being in a position to
23 talk to you if you want to talk to them. Believe me, I've been
24 there. I know where all the right places to stand are so the
25 jury gets to walk right by you.

1 I also want to tell you how much the Court appreciates
2 your service in this case. I cannot remember the last time I
3 saw a jury take as many notes as you did, pay as close
4 attention as you did. You've been consistently attentive
5 throughout this entire trial, and this is a longer trial than
6 some of them are. You've discharged your duties admirably, and
7 we all appreciate more than we can tell you how much -- we
8 appreciate more than we can tell you how much you've
9 contributed to the process and how important your service has
10 been.

11 This Court could not function without jurors such as
12 yourselves, and as I said during jury selection, you have
13 performed very real and significant public service. What you
14 have done is no small thing, and you should be proud of having
15 discharged your duty under our constitution in the way that
16 you've done it. And I know that I speak for not only myself
17 but the members of the court staff and the parties. Whether on
18 the winning side or the losing side, everybody respects a jury
19 that does its best and listens to the evidence and gives its
20 best effort. And -- and in my opinion, you've done nothing
21 less than that. And we appreciate your service very much.

22 One thing I'd like to request of you, this is a
23 request, but I believe it's important enough to recognize what
24 you've done that I would ask you in a moment when you're free
25 to leave that instead of walking right out of the courthouse, I

1 would ask that you do me the favor of going back to the jury
2 room for just a couple minutes, I'd like to come in with my
3 staff, I'd like to shake each hand and tell you face-to-face
4 how much I appreciate your service. I think it's that
5 important, and I think it warrants that kind of attention and
6 recognition by the Court. You don't have to do that. You're
7 free to go at any time. But if you would allow me to hold you
8 just a few minutes. I know it's a Friday afternoon, I promise
9 you it won't be long, but I'd like that privilege to thank you
10 face-to-face and shake each hand and tell you in person how
11 much we appreciate your service as jurors in this case.

12 This completes the trial of the case. You're
13 discharged as jurors. If you will do me that favor and retire
14 to the jury room, I'll be there in just a minute.

15 COURT SECURITY OFFICER: All rise for the jury.

16 (Jury out.)

17 THE COURT: The Court accepts the verdict of the jury,
18 directs that it be made part of the cause -- the papers in this
19 cause. The Court declares that this trial is now complete.

20 Counsel, you are excused.

21 (Court adjourned.)
22
23
24
25

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

/S/ Shelly Holmes
SHELLY HOLMES, CSR-TCRR
OFFICIAL REPORTER
State of Texas No.: 7804
Expiration Date: 12/31/16

11/20/15
Date